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FISCAL IMPACT STATEMENT

LS 6540

BILL NUMBER: HB 1057

NOTE PREPARED: Mar 29, 2005

BILL AMENDED: Mar 28, 2005

SUBJECT: Open Alcoholic Beverage Containers.

FIRST AUTHOR: Rep. Duncan

FIRST SPONSOR: Sen. Wyss

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill creates exceptions to the law concerning open alcoholic beverage containers in motor vehicles. It removes the requirement that, in proving a violation of the law, the state must show that the driver of the motor vehicle had a minimum level of alcohol in the driver's blood or breath. It specifies that a violation of the law occurs while the motor vehicle is on the right-of-way of a public highway even if the vehicle is not in operation.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenue: (Revised) *Penalty Provision:* Under current law, operating a motor vehicle with (1) blood alcohol content at or above a specified limit and (2) a container in the passenger compartment that has been opened, that has a broken seal, or from which some contents have been removed is a Class B infraction. On average, between CY 1999 and CY 2003, there were 396 citations a year for violation of the open container law.

Under this bill, the blood alcohol content condition would be removed, and the infraction would apply to a person having an open container in a motor vehicle in operation on the right-of-way of a public highway. The bill provides certain exceptions for a passenger who is not the driver, and is either in a motor vehicle used to transport persons for compensation or a passenger in the living quarters of a house coach or trailer, and for a vehicle that is not equipped with a trunk.

The judgment for a Class B infraction is \$1,000, and judgment revenues are deposited in the state General Fund. If a criminal action, infraction, or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Effect on Federal Funding: Assuming the language is accepted by the USDOT, this bill could eliminate the loss of federal monies that occurs because the state has not enacted and is not enforcing an open container law.

Since Indiana does not have acceptable language for open container laws by federal standards, federal monies that were originally available for roads and other transportation improvements now must be used for alcohol-related education activities, enforcing drunk driving laws by the law enforcement agencies in Indiana, or specific hazard-elimination activities by INDOT. In addition, because federal law allows only 90% of federal monies to be transferred from one account to another unrelated account, the state will lose an outright amount of money.

In FFY 2004, Indiana received \$15.6 M, which transferred from INDOT to the Governor's Council on Impaired and Dangerous Driving with an outright loss of \$1.56 M due to the 90% transfer limit. In FFY 2005, a federal continuing resolution will provide \$18.6 M. With transfer to the Council, the outright loss will be \$1.86 M.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Penalty Provision:* Local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

Effect on Federal Funding: Under an agreement with INDOT, local governments receive 25% of total federal dollars that are allocated to INDOT. Local governments would not have use of these funds for roads or other transportation projects.

State Agencies Affected: Indiana Department of Transportation, Criminal Justice Institute.

Local Agencies Affected: Local Law Enforcement Agencies; Trial Courts.

Information Sources: Gary Eaton, Indiana Department of Transportation.

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